

1 RUSSELL W. BUDD (admitted *pro hac vice*)
(TX Bar No.: 03312400)
2 CHARLES G. ORR III
(TX Bar No.: 00788148)
3 BARON & BUDD, P.C.
3102 Oak Lawn Avenue, Suite 1100
4 Dallas, TX 75219
Tel.: (214) 521-3605
5 Fax: (214) 520-1181
rbudd@baronbudd.com
6 corr@baronbudd.com

7
8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 In re Bard IVC Filters Products Liability
11 Litigation

No. MD-15-02641-PHX-DGC

12 **UNOPPOSED MOTION FOR ENTRY OF**
13 **A QUALIFIED PROTECTIVE ORDER**

14 By this motion, Baron & Budd, P.C. (“Claimants’ Counsel”) seeks the entry of the
15 attached Qualified Protective Order allowing protected health information and/or individually
16 identifiable health information as defined by 45 C.F.R. 160.103 or information that is otherwise
17 protected from disclosure by Health Insurance Portability and Accountability Act of 1996
18 (“HIPAA”)¹ or other applicable state law, regarding the individuals listed on Exhibit A to the
19 attached Qualified Protective Order, to be transmitted to undersigned counsel and any third-party
20 authorized by undersigned counsel to assist in the resolution of potential liens and reimbursement
21 claims. Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively, “Bard”) do
22 not oppose this Motion.

23 The Settlement Agreement requires the appointment of a Lien Resolution Administrator to
24 assist in the resolution of potential liens and reimbursement claims, including, but not limited to,

25 _____
26 ¹ HIPAA shall mean the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-
27 191, 110 Stat. 1936 (1996) and the implementing regulations issued thereunder including 45 C.F.R. Parts 160 and
28 164. HIPAA allows the Secretary of Health and Human Services to implement any appropriate or necessary
regulations. *Murphy v. Dulay*, 768 F.3d 1360, 1368 (11th Cir. 10/10/2014). The Secretary of Health and Human
Services promulgated 45 C.F.R. Parts 160 and 164 to address the privacy and disclosure of protected health
information and/or individually identifiable health information. *Id.*

1 those that may be asserted with respect to federal Medicare benefits as contemplated by the
2 Medicare Secondary Payer Act, 42 U.S.C. § 1395y and interpreting case law, including but not
3 limited to private carriers that have provided coverage pursuant to Medicare Part C (any Medicare
4 Advantage Plan); Medicaid liens; other governmental healthcare programs with statutory
5 reimbursement or subrogation rights (including, by way of example without limitation,
6 TRICARE, VA, and Indian Health Services benefits); or other private insurers. The Lien
7 Resolution Administrator's duties and functions include the authority to act as agent for
8 undersigned counsel for purposes of lien identification; to receive and release identifiable health
9 information; and to resolve liens and reimbursement claims.

10 In order to complete the duties and functions described above, the Lien Resolution
11 Administrator will need access to protected health information and/or individually identifiable
12 health information as defined by 45 C.F.R. 160.103 or information that is otherwise protected
13 from disclosure by HIPAA or other applicable state law, regarding the individuals listed on
14 Exhibit A to the attached Qualified Protective Order.

15 C.F.R. 164.512(e)(1)(i) provides:

16 (e) Standard: Disclosures for judicial and administrative proceedings. (1) Permitted
17 disclosures. A covered entity may disclose protected health information in the
18 course of any judicial or administrative proceeding: (i) In response to an order of a
19 court or administrative tribunal, provided that the covered entity discloses only the
20 protected health information expressly authorized by such order....

21 The attached Qualified Protective Order has satisfactory safeguards in place to limit the
22 disclosure and use of protected health information and/or individually identifiable health
23 information as defined by 45 C.F.R. 160.103 or information that is otherwise protected from
24 disclosure by HIPAA or other applicable state law because the information cannot be used for a
25 purpose other than the settlement of this litigation and the information must be destroyed at the
26 conclusion of this litigation.

27 Wherefore, Claimants' Counsel respectfully requests that this Motion for Entry of a
28 Qualified Protective Order be granted.

1 Dated: April 1, 2021

/s/ Russell W. Budd

Russell W. Budd (admitted *pro hac vice*)

(TX Bar No.: 03312400)

Charles G. Orr, III

(TX Bar No.: 00788148)

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11 **CERTIFICATE OF SERVICE**

12 I hereby certify that on April 1, 2021, I electronically filed the foregoing using the
13 CM/ECF system, which will send notification of such filing to all counsel of record who have
14 appeared.

15 /s/Russell W. Budd

16 Russell W. Budd